BOOK REVIEWS.

A TREATISE ON THE LAW OF QUASI CONTRACTS. By W. A. KEENER, Dean of the Law Faculty of Columbia College. New York: Baker, Voorhis & Co. 1893.

Professor KEENER has made a very valuable addition to the list of really scientific text books. The subject of which he treats is obscure, not so much from its inherent difficulties, but from the manner in which the subject has been treated from the earliest times by every court which administers the English system of law. Professor KEENER has endeavored to bring order out of chaos and has been most successful.

His first chapter dealing with the nature and scope of the obligation cannot but impress the reader at the outset with this idea. In all the cases he fails to find more than two opinions—one in Pennsylvania by LOWRIE, C. J., the other an English opinion by Mr. Lord Justice LINDLEY, in which the obligation of Quasi Contract is regarded as deriving its original from anything like the same source to which he himself attributes it. The accepted legal name for such obligations, contracts implied by law, he rejects, and not only rejects but proves to be utterly erroneous. All such so-called implied contracts and many which scarcely fall under that head he groups together within that class of obligation now recognized as those of Quasi Contracts, which, as he shows, differ from contracts in that the obligation is imposed by the law entirely regardless of that consent of the parties, which is the very vital principle and essence of the true contract and from torts, in that the obligation is positive, not negative; to do ustice and right, not merely to refrain from wrong.

To bring the myriad of cases, all decided upon the fiction of a contract implied by law, often in the very teeth of the true state of affairs, within the broad and scientific principles which govern the true Quasi Contract is no light task, but Professor KEENER accomplishes it in a clear and convincing manner.

There is often, of course, the difficulty arising from the mode of thought pursued by the courts, often Professor KEENER'S principles are fully borne out by the decision of the cases but not by the reasoning upon which the decision is based.

It will excite surprise that the result of the cases decided upon so different a principle, a mere legal fiction, should coincide so nearly with the author's conclusions based upon a rational following out of the Quasi Contractual relation.

Naturally, in some of the cases difficulities arise, but in the main the book is not only an admirable treatise of what the law should be but also a clear exposition of what the law is, however bad the author may sometimes consider the foundation.

The book is an admirable specimen and product of modern legal thought, the tendency of which is to systematize and reconcile the conflicting and often fanciful theories of the ancient law upon a broad, scientific and rational basis, and it is impossible to doubt that it will have a great influence upon the mind of all those who may read it, and will serve to clarify the obscurities of a hitherto difficult subject.

The remaining chapters treat of the various separate divisions of the subject, as follows:

Chapter II. Recovery of money paid under mistake. III. Waiver of tort, which chapter is perhaps the best illustration of the author's methods. Nothing could be more logical, clear and convincing than the manner in which the law is stated, the cases in the main bear out his position, and yet but very few show any recognition of the underlying principles which he so clearly states. IV. Rights of a plaintiff in default under a contract. V. Obligations of a defendant in default under a contract. VI and VII. Recovery for benefits conferred. (VI.) By request in absence of contract. (VII.) Without request. VIII. Recovery for improvements made upon land without request. IX. Money paid to use of defendant. X. Money paid under compulsion of law. XI. Money paid to defendant under duress.

The form of the book is capital, the marginal headings are

most useful and the index is really a guide and not, as it too often is, a hindrance. The book is very well and clearly printed and should be read by all who are interested in the scientific development of the law. F. H. B.

A TREATISE ON THE LAW AND PRACTICE OF VOLUNTARY ASSIGNMENTS FOR THE BENEFIT OF CREDITORS, adapted to the Laws of the various States with an Appendix of Forms. By ALEXANDER M. BURRILL. Sixth Edition, Revised and Enlarged, and an Appendix of State Statutes added by JAMES AVERY WEBB. New York: Baker, Voorhis & Co., 66 Nassau Street. 1894.

A new edition of this standard work is opportunely timed to supply a demand for information on a subject which at present must necessarily occupy the thought and attention of many attorneys. Mr. Burrill's work, originally published in 1853, has in the course of its six editions been through the hands of several editors, and in its present shape is a practical and satisfactory statement of the law on a subject which is necessarily complicated by the variety of statutes upon which it is based. The present editor, Mr. Webb, has removed from the text all quotations from state statutes, and has added as an appendix a synopsis of the statutes of the several states and territories relating to assignments for the benefit of creditors. While an attempt to paraphrase a statute is always to be deprecated, it may perhaps be justified in a text book on a subject involving a large amount of statutory law.

One of the most interesting chapters of the book relates to the subject of Preferences. The rule at common law was well established that a debtor in failing circumstances has a right in an assignment to prefer one creditor to another. The tendency of recent legislation, however, has been to restrict this privilege. Many of the older states have in recent years passed laws restricting it, and the new states, such as Oklahama, North Dakota, South Dakota and others, have forbidden it. The subject of preference has given rise to litigation in many cases where there has been a conflict